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COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACE-KEEPING OPERATIONS IN ALL THEIR ASPECTS

Model agreement between the United Nations and Member States contributing personnel and equipment to United Nations peace-keeping operations

Report of the Secretary-General

1. In paragraph 10 of its resolution 45/75 of 11 December 1990, the General Assembly welcomed "the initiative of the Secretary-General in preparing a model agreement between the United Nations and Member States contributing personnel to peace-keeping operations, while maintaining the flexibility needed to encompass different possible circumstances". Basing itself upon established practice and drawing extensively upon current agreements with countries contributing personnel, the Secretariat has prepared the model agreement annexed to the present report. The model is intended to serve as a basis for the drafting of individual agreements to be concluded between the United Nations and countries contributing personnel and equipment to a United Nations peace-keeping or similar operation. As such it is subject to modifications that may be agreed upon between the parties in each case.

2. The attached model, mutatis mutandis, will also serve as the basis for an agreement with a country not a Member State of the United Nations which may wish to contribute personnel and equipment to a United Nations peace-keeping operation.

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* A/46/50.

ANNEX

Draft model agreement between the United Nations and Member States contributing personnel and equipment to the United Nations peace-keeping operations

I. DEFINITIONS

1. For the purpose of the present agreement the following definitions shall apply: a/

II. ESTABLISHMENT OF THE UNITED NATIONS PEACE-KEEPING OPERATION

2. In the implementation of Security Council resclution [...] approving the report of the Secretary-General which contains the terms of reference of [the United Nations peace-keeping operation], an agreement is hereby concluded between the United Nations and the Government of [Participating State].

III. CONTRIBUTION

3. In accordance with the request of the Secretary-General, [the Participating State] shall contribute to [the United Nations peace-keeping operation] the following:

[- type and number of personnel

- general description of equipment]

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a/ This section will contain definitions of the main terms used in the agreement such as:

"Participating State" means a State contributing military and/or civilian personnel to the United Nations peace-keeping operation.

"Head of Mission" means the Special Representative/Commander appointed by the Secretary-General with the consent of the Security Council.

IV. APPLICATION OF THE STATUS AGREEMENT b/

4. The status agreement affirms the international nature of [the United Nations peace-keeping operation] as a subsidiary organ of the United Nations and defines the privileges and immunities, rights and facilities as well as the duties of [the United Nations peace-keeping operation] and its members.

5. Accordingly, the military and/or civilian personnel provided by [the Participating State] shall enjoy the privileges and immunities, rights and facilities and comply with the obligations provided for in the status agreement.

6. Pending the conclusion of such an agreement, the United Nations shall apply the customary principles and practices which are embodied in the model status-of-forces agreement.

V. AUTHORITY

7. During the period of their assignment to [the United Nations peace-keeping operation], the personnel made available by [the Participating State] shall remain in their national service but shall be under the command of the United Nations, vested in the Secretary-General, under the authority of the Security Council. Accordingly, the Secretary-General of the United Nations shall have full authority over the deployment, organization, conduct and direction of [the United Nations peace-keeping operation], including the personnel made available by [the Participating State]. In the field, such authority shall be exercised by the Head of Mission, who shall be responsible to the Secretary-General. The Head of Mission shall regulate the further delegation of authority.

8. The Head of Mission shall have general responsibility for the good order and discipline of [the United Nations peace-keeping operation]. Responsibility for disciplinary action with respect to military personnel made available by [the Participating State] shall rest with an officer designated by the Government of [Participating State] for that purpose.

VI. INTERNATIONAL CHARACTER

9. The functions of [the United Nations peace-keeping operation] are exclusively international and the personnel made available by [the Participating State] shall regulate their conduct with the interests of the United Nations only in view. Except on national administrative matters, they shall not seek or accept instructions in respect of the performance of their duties from any authority external to the United Nations, nor shall the Government of [Participating State] give such instructions to them.

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b/ See model status-of-forces agreement for peace-keeping operations (A/45/594).

10. The Government of [Participating State] may raise with the Secretary-General any matter relating to its personnel serving with [the United Nations peace-keeping operation].

VII. ADMINISTRATIVE AND FINANCIAL MATTERS

(a) Personnel

11. The Government of [Participating State] shall ensure that the personnel it provides meet the standards established by the United Nations for service with [the United Nations peace-keeping operation], inter alia, with respect to rank, experience, physical fitness, specialization, and knowledge of languages, and shall comply with whatever policies and procedures may be laid down by the United Nations regarding medical or other clearances, vaccinations, travel, shipping, leave or other entitlements.

12. During the period of their assignment to [the United Nations peace-keeping operation], the Government of [Participating State] shall be responsible for payment of whatever emoluments, allowances and benefits may be due to its personnel under national arrangements.

13. The United Nations shall convey to the Government of [Participating State] all pertinent information relating to the provision of the personnel mentioned in article III above, including matters of liability for loss or damage to United Nations property and compensation claims in respect of death, injury or illness attributable to United Nations service and/or loss of personal property.

(i) Military personnel

14. The general administrative and financial arrangements applicable to the provision of military personnel shall be those set forth in the Aide-mémoire for troop-contributing countries, the standard provisions applicable to military observers and other military personnel and/or the Notes for guidance of military observers applicable to [the United Nations peace-keeping operation], which are annexed hereto.

15. In the case of military observers, the United Nations shall meet the cost of travel to and from [the United Nations peace-keeping operation] and shall also pay a travel subsistence allowance while they are in official travel status. A mission subsistence allowance shall be payable for the duration of their assignment to [the United Nations peace-keeping operation] at a rate to be established by the Secretary-General, which may be subject to change. The mission subsistence allowance shall be deemed to constitute the total contribution of the United Nations towards the cost of meals, lodging, local transportation and other incidental expenses.

16. In the case of formed bodies of troops, the United Nations, in consultation with the Government of [Participating State], shall make

arrangements for the transportation of troop contingents and their baggage to and from [the United Nations peace-keeping operation]. It shall reimburse the Government of [Participating State] at the standard rate(s) established by the General Assembly in respect of pay and allowances, supplementary payment for specialists, usage factor for personal clothing, gear and equipment, and personal weaponry, including ammunition. c/ It shall also provide an allowance of $1.28 per person per day, payable in [appropriate local currency], to cover personal incidental expenses. d/ Appropriate accommodation and mess facilities shall be provided by the United Nations. Where the United Nations deems that the provision of such facilities is not possible or feasible, a mission subsistence allowance will be paid.

(ii) Civilian personnel

17. Civilian personnel provided by the Government of [Participating State] who are serving as part of a formed body of troops shall be assimilated to military members of formed bodies of troops for the purposes of this agreement.

18. Unless otherwise stated in writing, election observers, civilian police or other civilian personnel provided by the Government of [Participating State] and holding the status of experts on mission, shall be covered, mutatis mutandis, by the provisions of this agreement and of the Standard provisions and/or Notes for guidance applicable to military observers.

(b) Equipment/supplies/aircraft/vessels/services

19. The equipment/supplies/aircraft/vessel(s)/services described in article III above, shall remain the property of the Government of [Participating State]. Such equipment/supplies/aircraft/vessels/services shall not be substituted/withdrawn/curtailed/discontinued without the prior approval of the United Nations.

20. The value of all Government/contingent-owned equipment and other supplies made available to the United Nations shall be determined upon their arrival in and departure from [the United Nations peace-keeping operation]. The United Nations shall reimburse the Government of [Participating State] as compensation for usage of the equipment in the amount of the difference between the value of the equipment at the time it is brought in and the residual value when it is repatriated, in the case of short-term missions, or,

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c/ From July 1991, $988 per person per month for pay and allowances (all ranks); $291 per person per month supplementary payment for specialists, for up to a minimum of 25 per cent of logistic units and up to 10 per cent of other units; $65 per person per month for the usage factor for personal clothing, gear and equipment (all ranks)/$5 per person per month for personal weaponry, including ammunition (all ranks).

d/ This allowance may be phased out shortly.

in the case of missions extending over several years, at rates of 30 per cent, 30 per cent, 20 per cent and 20 per cent per annum respectively over a four-year period. In the case that the full incoming value of the equipment is reimbursed to the Government of [Participating State], the residual value of outgoing equipment at the completion of an operation shall be credited to the United Nations.

21. The aforementioned aircraft/vessel(s) shall retain its/their national registration but when so requested by the United Nations, and at its expense, the Government of [Participating State] shall arrange to affix United Nations insignia and to paint the aircraft/vessel(s) in United Nations livery.

22. The United Nations shall reimburse to the Government of [Participating State] the costs of preparation and deployment. In addition, the costs of operation, maintenance and depreciation of the aircraft/vessel(s), including crew rotation costs, shall be reimbursed at a fixed monthly rate of [amount]. Other crew costs shall be reimbursed according to standard rates for troop reimbursement where the United Nations provides accommodation and mess facilities. Where the United Nations considers that the provision of such facilities is not possible or feasible, a mission subsistence allowance will be paid. In the case of aircraft, spare parts, repairs, overhaul and maintenance and depreciation costs shall be reimbursed at a standard hourly rate of [amount] up to a maximum of [number] flying hours per month, including training or test flights.

23. The United Nations shall arrange appropriate third-party insurance. Any claim by the Government of [Participating State] in respect of loss of aircraft/vessel(s) while in service with the United Nations, shall be settled by negotiation, based on the residual value of the aircraft/vessel(s) at the time of the loss. The United Nations shall also entertain claims for extraordinary repair costs when such costs may result from a major operational incident occurring while the aircraft/vessel(s) remain in service with [the United Nations peace-keeping operation].

VIII. JURISDICTION

24. Questions relating to allegations of criminal offence and civil liability of personnel provided by [the Participating State] shall be settled in accordance with the procedures provided for in the Status Agreement.

25. [The Participating State] agrees to exercise jurisdiction with respect to crimes or offences which may be committed by its military personnel serving with [the United Nations peace-keeping operation]. [The Participating State] shall keep the Head of Mission informed regarding the outcome of such exercise of jurisdiction.

IX. NOTIFICATION OF WITHDRAWAL

26. The Government of [Participating State] shall not withdraw its personnel from [the United Nations peace-keeping operation] without giving adequate prior notification to the Secretary-General of the United Nations.

27. Should the services of any or all of the personnel provided by [the Participating State] no longer be required, the Secretary-General of the United Nations shall give adequate prior notification to the Government of [Participating State] for its withdrawal.

X. APPLICABILITY OF INTERNATIONAL CONVENTIONS

28. [The United Nations peace-keeping operation] shall observe and respect the principles and spirit of the general international conventions applicable to the conduct of military personnel. The international conventions referred to above include the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977 and the UNESCO Convention of 14 May 1954 on the Protection of Cultural Property in the event of armed conflict. [The Participating State] shall therefore ensure that the members of its national contingent serving with [the United Nations peace-keeping operation] be fully acquainted with the principles and spirit of these Conventions.

XI. SETTLEMENT OF DISPUTES

29. Disputes between the United Nations and [the Participating State] concerning the interpretation or application of this agreement which are not settled by negotiation or other agreed mode of settlement shall be submitted to arbitration at the request of either party. Each party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the Chairman. If within thirty days of the request for arbitration either party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either party may request the President of the International Court of Justice to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, and the expenses of the arbitration shall be borne by the parties as assessed by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the parties as the final adjudication of the dispute.

XII. SUPPLEMENTAL ARRANGEMENTS

30. The Secretary-General of the United Nations and the Government of [the Participating State] may conclude supplemental arrangements to the present agreement.

XIII. MISCELLANEOUS PROVISIONS

31. The present agreement shall enter into force on ..., the date that the personnel provided by [the Participating State] assumes duties with [the United Nations peace-keeping operation].

32. The present agreement shall remain in force until the departure of the personnel provided by [the Participating State] from [host country/territory] either in accordance with the terms of paragraphs 26 or 27 or upon termination of [the United Nations peace-keeping operation] except that the provisions of paragraph 29 above shall remain in force until all outstanding claims have been settled.